IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28..9..2006

CORAM:

THE HON'BLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE K.CHANDRU

WRIT PETITION NO.36714 OF 2006

Prof. K.Rajayyan … Petitioner

vs.

1. The Secretary
Ministry of Education
Human Resources Development
Government of India
New Delhi 110 301.

2. The Secretary
Department of Education
Government of Tamil Nadu
Fort St. George
Chennai 600 009. … Respondents

Petition filed under Article 226 of the Constitution of India seeking for issuance of writ of Mandamus for the reasons as stated therein directing the Respondents accord due recognition to the uprising against British Rule in the year 1800 and consequentially declare the same as the first war of Independence.

For Petitioner : Mr.Sivam Sivanandaraj
For Respondent : Mr. Raja Kalifulla Government Pleader

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ORDER

(Order of the Court was delivered by K.Chandru, J.)

The petitioner, a well-known Professor of History even at the age of 72 years with indomitable urge and enthusiasm has come up with the present writ petition in public interest with a prayer seeking for suitable recognition by the authorities concerned to accord due recognition to the 1800 uprising against the British rule in South India and he wants that even to be declared as the First War of Independence. The fire with which the petitioner has come forward with the present petition is completely understandable. By doing so, the petitioner has only discharged his Fundamental Duties enshrined in Article 51-A of the Constitution of India, more particularly, Articles 51-A (b) and (h) found in that Article.

2. The petitioner himself has summarized the significance of the South Indian Rebellion at page 354 of his text book titled as "South Indian Rebellion (1800 - 1801) - The First War of Independence" published by Ratna Publications, Madurai, Second Edition, 2000 in the following words and claims a superior status in history and therefore, it must be given due recognition by the authorities.

> "It is clear that the South Indian Rebellion represents the First War of Independence in India. V.D.Savarkar and the Government of India have depicted the Mutiny of 1857 as the First War of Independence. But this is in conflict with the logic of historical chronology. The South Indian Rebellion was fought more than half a century earlier but for long it missed historical research. Among the still earlier insurrections were : Rebellion in Tirunelveli, Tamilnadu in 1755, Rebellion in Dhalbum, Bengal in 1769, Rebellion in Gorakhpur, Uttar Pradesh in 1778, Rebellion in Rangapur and Dinajpur, Bengal in 1783 and Rebellions in Orissa and Coastal Andhra in 1794. Despite the significance of these out breaks, they are not comparable to the Rebellion of 1800 – 1801 either in organisation, magnitude or goal aimed at. When compared to the varied movements the South Indian Rebellion remains a unique phenomenon in history for, it was organised as a popular

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response to wide spread oppression, formulated with a definite motive, executed with a clear cut strategy and marked by a magnitude of sacrifice – all calculated to preserve the freedom of mother land and rights of the inhabitants."

3. Historical events have always been re-interpreted by nationalist historians in order to arouse the consciousness of the ordinary masses. As the freedom struggle developed, nationalist historiography attempted "a deliberate re-interpretation of Indian history in order to infuse enthusiasm in the fight for freedom....." It was V.D.Savarkar who renamed the Revolt of 1857 as the 'Indian War of Independence'. Savarkar's book of that title is a typical example of the representation of history from an extremely nationalist point of view. S.B.Chaudhuri's Civil Rebellions in the Indian Mutiny 1857 – 59 asserted that the civil rebellions which accompanied the Mutiny gave it the character of a national war of independence.

4. However, it was after the independence in 1955, Maoulana Azad, free India's Minister for Education, invited Surendranath Sen to write a new history of the struggle of 1857 and he accepted the assignment. Though a government – sponsored work, the author acknowledged that there was no attempt at interference and that his work was "not an 'authorised version' in any sense. Eighteen Fifty Seven, Sen's last major work, refused to idealize the Mutiny as a 'national war' except two regions, Oudh and Shahabad; at the same time it refused to dismiss it as a mere military rising. Apart from the feelings roused, the main methodological difficulty in writing an account of the Mutiny is the 'one-sidedness' of the sources which are overwhelmingly British. Sen had to extract the Indian version from scattered materials, such as the papers of Maulvi Rajab Ali, Munshi Jiwanlal's Diary of the events of the Mutiny in Delhi, the account of Kedarnath, etc. Sen's narration is above the pale of controversy and his analysis and assessment have set up a high standard of historical objectivity.

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5. Today, the rebellion and revolt of the common masses are recorded and those historical studies are being published. Their writings now called as “Subaltern Studies” are on the increase and have become extremely popular and have been accepted as part of History writing. In defining the ‘Subaltern Studies’, Prof.E.Sreedaran in his Textbook of Historiography (500 BC to AD 2000) 2004, published by Orient Longman, writes as follows:

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> "The Subaltern Studies are collections of monographs on diverse, unconnected topics. Their one theme is the insurgency of the lower classes. Subaltern, a term take from Antonio Gramsci's manuscript writings, means 'of inferior rank' whether of class, caste, age, gender or office. Subaltern Studies bring to light the lower sections of the Indian people hitherto neglected by historiography."

6. But the writers of Subaltern Studies in Indian History were also critical of the nationalist writers who wrote on the Mutiny of 1857. According to some of them, the ordinary rebel, his role and his perception of alien rule and the contemporary crisis -- all these have been left out of the historical literature of the Great Revolt. Bhadra's essay rehabilitates four of such rebel characters of 1857 : Shah Mal, Devi Singh, Gonoo and Maulvi Ahmadullah Shah. Their stories point to the existence in 1857 of what Gramsci calls 'multiple elements of conscious leadership'.

7. Writing about the historiographical changes that are taking place in history writing Dr.Romila Thapar, Professor Emeritius, in her book "Penguin History of Early India (Vol-I) 2003, published by Penguin Book (India) wrote as follows:

> "Historiographical change incorporates new evidence and new ways of looking at existing evidence. The inclusion of perspectives from other human sciences such as studies of societies, economics and religions has led to some important reformulations in explaining the past, resulting primarily from asking different questions from the sources than had been asked before. If earlier historical writing was concerned largely with politics, today it includes virtually all human activities and their interconnections. These are crucial to the argument that the image of reality, as reflected in the human sciences, is socially and culturally controlled and that actions have multiple causes. Advances in knowledge would inevitably change some of these perspectives. Historical explanation therefore creates an

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awareness of how the past impinges on the present, as well as the reverse."

8. Talking about the developments that had taken place in the history writing, Prof.R.Champakalakshmi in her introduction to K.A.Nilakanta Sastri's book "A History of South India (2006) [4th Edition Oxford University Press] writes as follows:

> "From the sixties, the historiography of India has undergone a significant and welcome change and most of the earlier works have come to be generally classified as tradition / conventional, primarily to distinguish them from the new works based on an integrated approach to the study of Indian history providing fresh insights gained by more scientific methodologies and conceptually significant analytical frameworks. As a result, different and more meaningful perspectives have emerged which had led to refreshingly new visions of the past. In fact compartmentalized treatments of political, social, and economic histories as isolated chapters in traditional historiography, has given place to history in its totality, underlining the inter-relationships among various spheres of human activity."

9. She also in the same introduction, in reply to the criticism that South Indian History has not been given due recognition, wrote as follows:

> "Historiography of South India has taken a significant turn since Sastri with a new awareness of the need for both advanced methodology and sound empirical base to achieve a more meaningful and purposeful research in south Indian history. Present and future researches can enhance our understanding of the past by following a more scientific methodology of exploring the sources, by adopting an integrated approach to the study of historical process / change and introducing a more logical periodization in south Indian history."

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10. It was surprising to note that Karl Marx, a great political philosopher, who was a German migrant staying in Britain those days was keenly watching the developments of 1857 Mutiny and had sent periodical despatches to USA and his articles were published in the New York Daily Tribune. In one such article published on 16.9.1857, the following passages were found. It showed his profound understanding of the events that were unfolded 150 years ago.

10.1. "The outrages committed by the revolted sepoys in India are indeed appalling, hideous, ineffable-such as one is prepared to meet only in wars of insurrection, of nationalities, of races, and above all of religion; in one word, such as respectable England used to applaud when perpetrated by the Vendeans on the "Blues", by the Spanish guerrillas on the infidel Frenchmen, by Serbians on their German and Hungarian neighbours, by Croats on Viennese rebels, by Cavaignac's Garde Mobile or Bonaparte's Decembrists on the sons and daughters of proletarian France. However infamous the conduct of the sepoys, it is only the reflex, in a concentrated form, of England's own conduct in India, not only during the epoch of the foundation of her Eastern Empire, but even during the last ten years of a long-settled rule. To characterize that rule, it suffices to say that torture formed an organic institution of its financial policy. There is something in human history like retribution; and it is a rule of historical retribution that its instrument be forged not by the offended, but by the offender himself."

10.2. "The first blow dealt to the French monarchy proceeded from the nobility, not from the peasants. The Indian revolt does not commence with the ryots, tortured, dishonoured and stripped naked by the British, but with the sepoys, clad, fed, petted, fatted and pampered by them. To find parallels to the sepoy atrocities, we need not, as some London papers pretend, fall back on the middle ages, nor even wander beyond the history of contemporary England. All we want is to study the first Chinese war, an event, so to say, of yesterday. The English soldiery then committed abominations for the mere fun of it; their passions being neither sanctified by religious fanaticism nor exacerbated by hatred against an overbearing and conquering race, nor provoked by the stern resistance of a heroic enemy. The violations of women, the spittings of children, the roastings of whole villages, were then mere wanton sports, not recorded by mandarins, but by British officers themselves."

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10.3. In those days, even though the British public opinion was distorted by the British Press due to their colonial outlook, the writings of Karl Marx showed great sympathy that he had for the Indian people.

10.4. Although the British press did its all to hush up the participation in the revolt of the people's masses, Karl marx asserted in his early articles sent and published in the Yew York Daily Tribune that the Indian people not only sympathized with, but supported, the revolt in every way. In his "The Indian Revolt" Marx proved beyond doubt that broad sections of the people-the peasants most of all-took part in the insurrection in a direct or indirect way. The immense scale of the revolt, Marx wrote, and the fact that the English met great difficulties in obtaining supplies and transports for their troops, witnessed to the hostility of the Indian peasantry.

10.5. In estimating the historical impact of the Indian revolt, Marx points out that while it failed to alter the colonial regime in India to any appreciable extent, it revealed the general hatred among the Indian people of colonial enslavement, and showed its ability and determination for liberation. The revolt had compelled the British colonialists to change somewhat their forms and methods of colonial rule. Among other things, they abolished the East India Company, whose policy outraged opinion in India.

11. However, in the light of the above, it should be seen whether the prayer made by the petitioner can be countenanced by this Court. In paragraph 5 of the affidavit, the petitioner states that the first respondent is attempting to celebrate the War of Independence of 1857 in a grand scale and has also allocated certain amounts for the said celebration. This, according to the petitioner, will aggravate the discrimination and denial of justice to the major events in the National History and will violate historical chronology as well as objectivity. This submission made by the petitioner and projected by the learned counsel for the petitioner cannot be accepted. In order to consider the claim of the petitioner's claim, one need not underscore the significance of 1857 War of Independence. The historical events leading to the 1857 Mutiny has come to stay and the people of India will always cherish the said event in their memory. Therefore, this Court need not enter into that controversy about the historical validity of the 1857 Mutiny.

12. Coming to the question of considering the prayer of the writ petitioner, viz., the respondents should be directed to

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accord due recognition to the uprising against the British Rule in the year 1800 and to declare the same as First War of Independence, we are afraid that this Court cannot go into such an issue that too, in a proceedings initiated under Article 226 of the Constitution of India.

13. While there can be no final word on the issues relating to historical events, but the merits and demerits of particular events cannot be gone into by this Court in a petition under Article 226 of the Constitution of India. We must refrain ourselves in commenting on academic issues and it is best left to the decision making process by academic bodies.

14. The courts are not expert in deciding academic matters and it is not for them to decide as to what course should be taught in universities and what should be their curriculum. This caution was sounded in University of Mysore v. C.D. Govinda Rao (AIR 1965 SC 491) wherein Gajendragadkar, J. (as His Lordship then was) speaking for the Constitution Bench held that it would normally be wise and safe for the courts to leave the decisions of academic matters to experts who are more familiar with the problems they face than the Courts generally can be.

15. This principle was reiterated in J.P.Kulshrestha (Dr.) v. Chancellor, Allahabad University [(1980) 3 SCC 418] wherein it was held as under: (SCC p.426, para 17)

> While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies. But university organs, for that matter any authority in our system, are bound by the rule of law and cannot be law unto themselves. If the Chancellor or any other authority lesser in level decides an academic matter or an educational question, the court keeps its hands off; but where a provision of law has to be read and understood, it is not fair to keep the court out.

16. Both these decisions were quoted with approval in a recent decision of the Supreme Court reported in (2004) 6 SCC 661 [P.M.BHARGAVA AND OTHERS vs. UNIVERSITY GRANTS COMMISSION AND ANOTHER].

17. In the light of the above, the prayer as sought for by the petitioner cannot be granted. However, the learned counsel for the petitioner states that the representation made by the

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petitioner dated 03.3.2006 is pending with the first respondent and it has not received any disposal. Therefore,without going into the merits of the issue raised before us, the first respondent is directed to dispose of the petitioner's representation dated 03.3.2006 together with the materials placed along with the same in accordance with law.

18. This writ petition is disposed of with the above observation. However, there will be no order as to costs.

gri

Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1. The Secretary
   Ministry of Education
   Human Resources Development
   Government of India
   New Delhi

2. The Secretary
   Department of Education
   Government of Tamil Nadu
   Fort St. George
   Chennai

+ one cc to Mr. Sivam Sivanandaraj, Advocate srno. 46636
+ one cc to the Government Pleader sr no. 46641

MS(CO)
NM(13.11.2006)

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